

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

IN RE APPLICATION OF THP CAPSTAR  
ACQUISITION CORP. (now known as DMX).

Related to

UNITED STATES OF AMERICA,

Plaintiff,

v.

AMERICAN SOCIETY OF COMPOSERS,  
AUTHORS AND PUBLISHERS,

Defendant.

09 Civ. 7069 (DLC)

41 Civ. 1395 (DLC)

**SUPERSEDEAS BOND**

**Bond No.: 019035191**

KNOW ALL BY THESE PRESENTS:

That defendant American Society of Composers, Authors and Publishers ("ASCAP"), as Principal, and Liberty Mutual Insurance Company, a corporation authorized to transact surety business in the State of New York, as Surety, are held and firmly bound unto United States District Court Southern District of New York, as Obligee, in the penal sum of \$17,085,609.50, lawful money of the United States of America, for the payment of which, well and truly to be made, we bind ourselves, our heirs, legal representatives, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, a Judgment Order was entered in the above-captioned action on December 20, 2010, in the United States District Court for the Southern District of New York;

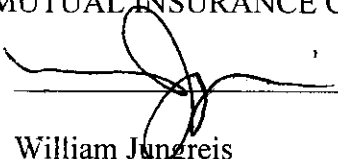


Print Name: John A. LoFrumento

Title: Chief Executive Officer

**Surety:**

LIBERTY MUTUAL INSURANCE COMPANY

Signed: 

Print Name: William Jungreis

Title: Attorney-in-fact

**Filed and approved:**

1/10/11  
Date

Ruby S. Krajick  
District Court Clerk


By R. [Signature]  
Def/164

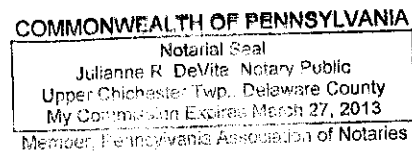
**SURETY NOTARY ACKNOWLEDGEMENT**

State of Pennsylvania } ss.  
County of Delaware

On this 7th day of January, 2011, before me personally came William Jungreis to me known, who, being by me duly sworn, did depose and say that he is attorney-in-fact of Liberty Mutual Insurance Company the corporation described in and which executed the above instrument; that he knows the corporate seal of said corporation; that the seal affixed to the within instrument is such corporate seal, and that he/she signed the said instrument and affixed the said seal as Attorney-In-Fact by authority of the Board of Directors of said corporation and by authority of this office under the Standing Resolutions thereof.

My commission expires 3-27-13

  
Julianne R. DeVita, Notary Public



3059789

THIS POWER OF ATTORNEY IS NOT VALID UNLESS IT IS PRINTED ON RED BACKGROUND.

This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

LIBERTY MUTUAL INSURANCE COMPANY  
BOSTON, MASSACHUSETTS  
POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS: That Liberty Mutual Insurance Company (the "Company"), a Massachusetts stock insurance company, pursuant to and by authority of the By-law and Authorization hereinafter set forth, does hereby name, constitute and appoint **WILLIAM JUNGREIS, OF THE CITY OF PHILADELPHIA, STATE OF PENNSYLVANIA**

, each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations in the penal sum not exceeding **FIFTY MILLION AND 00/100** DOLLARS (\$ **50,000,000.00**) each, and the execution of such undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents, shall be as binding upon the Company as if they had been duly signed by the president and attested by the secretary of the Company in their own proper persons.

That this power is made and executed pursuant to and by authority of the following By-law and Authorization:

ARTICLE XIII - Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

By the following instrument the chairman or the president has authorized the officer or other official named therein to appoint attorneys-in-fact:

Pursuant to Article XIII, Section 5 of the By-Laws, Garnet W. Elliott, Assistant Secretary of Liberty Mutual Insurance Company, is hereby authorized to appoint such attorneys-in-fact as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

That the By-law and the Authorization set forth above are true copies thereof and are now in full force and effect.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Company and the corporate seal of Liberty Mutual Insurance Company has been affixed thereto in Plymouth Meeting, Pennsylvania this 17th day of August, 2010.

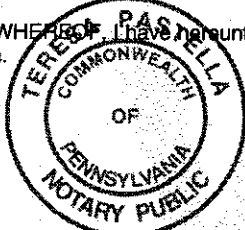
LIBERTY MUTUAL INSURANCE COMPANY

By Garnet W. Elliott  
Garnet W. Elliott, Assistant Secretary

COMMONWEALTH OF PENNSYLVANIA ss  
COUNTY OF MONTGOMERY

On this 17th day of August, 2010, before me, a Notary Public, personally came Garnet W. Elliott, to me known, and acknowledged that he is an Assistant Secretary of Liberty Mutual Insurance Company; that he knows the seal of said corporation; and that he executed the above Power of Attorney and affixed the corporate seal of Liberty Mutual Insurance Company thereto with the authority and at the direction of said corporation.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at Plymouth Meeting, Pennsylvania, on the day and year first above written.



COMMONWEALTH OF PENNSYLVANIA  
Notarial Seal  
Teresa Pastella, Notary Public  
Plymouth Twp., Montgomery County  
My Commission Expires March 28, 2013  
Member, Pennsylvania Association of Notaries

By Teresa Pastella  
Teresa Pastella, Notary Public

CERTIFICATE

I, the undersigned, Assistant Secretary of Liberty Mutual Insurance Company, do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy, is in full force and effect on the date of this certificate; and I do further certify that the officer or official who executed the said power of attorney is an Assistant Secretary specially authorized by the chairman or the president to appoint attorneys-in-fact as provided in Article XIII, Section 5 of the By-laws of Liberty Mutual Insurance Company.

This certificate and the above power of attorney may be signed by facsimile or mechanically reproduced signatures under and by authority of the following vote of the board of directors of Liberty Mutual Insurance Company at a meeting duly called and held on the 12th day of March, 1980.

VOTED that the facsimile or mechanically reproduced signature of any assistant secretary of the company, wherever appearing upon a certified copy of any power of attorney issued by the company in connection with surety bonds, shall be valid and binding upon the company with the same force and effect as though manually affixed.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seal of the said company, this 7th day of January, 2011.



By David M. Carey  
David M. Carey, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, bank deposit, currency rate, interest rate or residual value guarantees.

To confirm the validity of this Power of Attorney call 1-610-832-8240 between 9:00 am and 4:30 pm EST on any business day.

**CERTIFICATE OF SOLVENCY UNDER SECTION 1111 OF THE NEW YORK  
INSURANCE LAW**

**STATE OF NEW YORK  
INSURANCE DEPARTMENT**

It is hereby certified that

**Liberty Mutual Insurance Company  
Of Boston, Massachusetts**

a corporation organized under the laws of the State of Massachusetts and duly authorized to transact the business of insurance in this State, is qualified to become surety or guarantor on all bonds, undertakings, recognizances, guaranties and other obligations required or permitted by law; and that the said corporation is possessed of a capital and surplus including gross paid-in and contributed surplus and unassigned funds (surplus) aggregating the sum of \$12,491,552,915 (Capital \$10,000,000) as is shown by its sworn financial statement for the year ended December 31, 2009 on file in this Department, prior to audit.

The said corporation cannot lawfully expose itself to loss on any one risk or hazard to an amount exceeding 10% of its surplus to policyholders, unless it shall be protected in excess of that amount in the manner provided in Section 4118 of the Insurance Law of this State.



In Witness Whereof, I have here-  
unto set my hand and affixed the  
official seal of this Department  
at the City of Albany, this 23rd  
day of April, 2010.

**James J. Wrynn  
Superintendent of Insurance**

By *Clark J. Williams*

**Clark J. Williams  
Special Deputy Superintendent**

**State of New York**

**INSURANCE DEPARTMENT**

**WHEREAS IT APPEARS THAT**

**Liberty Mutual Insurance Company**

**Home Office Address**

**Boston, Massachusetts**

**Organized under the Laws of**

**Massachusetts**

**has complied with the necessary requirements of or pursuant to law, it is hereby**

**licensed to do within this State the business of**

accident and health, fire, miscellaneous property, water damage, burglary and theft, glass, boiler and machinery, elevator, animal, collision, personal injury liability, property damage liability, workers' compensation and employers' liability, fidelity and surety, credit, motor vehicle and aircraft physical damage, marine and inland marine and marine protection and indemnity insurance, as specified in paragraph (s) 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20 and 21 of Section 1113(a) of the New York Insurance Law and also such workers' compensation insurance as may be incident to coverages contemplated under paragraphs 20 and 21 of Section 1113(a), including insurances described in the Longshoremen's and Harbor Workers' Compensation Act (Public Law No. 803, 69 Cong. as amended; 33 USC Section 901 et seq. as amended), and as authorized by Section 4102(c), insurance of every kind or description outside of the United States and reinsurance of every kind or description to the extent permitted by certified copy of its charter document on file in this Department until July 1, 2011.

**In Witness Whereof, I have hereunto set  
my hand and affixed the official seal of this  
Department at the City of Albany, New York, this  
1st day of July, 2010**



**James J. Wynn  
Superintendent**

**By**

*Clark J. Williams*

**Clark J. Williams  
Special Deputy Superintendent**

Original on Watermarked Paper

## ASSETS

	Current Year			Prior Year
	1	2	3	4
	Assets	Nonadmitted Assets	Net Admitted Assets (Cols. 1 - 2)	Net Admitted Assets
1. Bonds (Schedule D)	11,425,766,895		11,425,766,895	11,057,069,501
2. Stocks (Schedule D):				
2.1 Preferred stocks	782,976,318		782,976,318	757,318,706
2.2 Common stocks	9,135,552,552		9,135,552,552	7,570,471,320
3. Mortgage loans on real estate (Schedule B):				
3.1 First liens	519,022,709		519,022,709	548,091,252
3.2 Other than first liens				
4. Real estate (Schedule A):				
4.1 Properties occupied by the company (less \$ 0 encumbrances)	337,179,530		337,179,530	425,989,166
4.2 Properties held for the production of income (less \$ 0 encumbrances)	978,262		978,262	1,039,982
4.3 Properties held for sale (less \$ 0 encumbrances)				
5. Cash (\$ 389,502,555, Schedule E - Part 1), cash equivalents (\$ 82,179,054, Schedule E - Part 2), and short-term investments (\$ 352,650,853, Schedule DA)	824,332,462		824,332,462	1,349,305,516
6. Contract loans (including \$ 0 premium notes)				
7. Other invested assets (Schedule BA)	5,771,150,576	206,157	5,770,944,419	5,131,343,213
8. Receivables for securities	12,271,548		12,271,548	2,859,056
9. Aggregate write-ins for invested assets				
10. Subtotals, cash and invested assets (Lines 1 to 9)	28,809,230,852	206,157	28,809,024,695	26,844,088,712
11. Title plants less \$ 0 charged off (for Title Insurers only)				
12. Investment income due and accrued	133,129,777		133,129,777	140,188,757
13. Premiums and considerations:				
13.1 Uncollected premiums and agents' balances in the course of collection	993,264,743	14,732,220	978,532,523	1,071,899,224
13.2 Deferred premiums, agents' balances and installments booked but deferred and not yet due (including \$ 0 earned but unbilled premiums)	1,519,460,073		1,519,460,073	1,594,927,150
13.3 Accrued retrospective premiums	366,445,346	36,644,535	329,800,811	383,694,097
14. Reinsurance:				
14.1 Amounts recoverable from reinsurers	593,195,507		593,195,507	560,300,803
14.2 Funds held by or deposited with reinsured companies	13,527,020		13,527,020	17,294,633
14.3 Other amounts receivable under reinsurance contracts				
15. Amounts receivable relating to uninsured plans	21,095	11,418	9,677	175,315
16.1 Current federal and foreign income tax recoverable and interest thereon	313,172,066		313,172,066	
16.2 Net deferred tax asset	1,188,251,090	164,925,490	1,023,325,600	846,790,256
17. Guaranty funds receivable or on deposit	33,248,467		33,248,467	32,559,328
18. Electronic data processing equipment and software	319,102,379	257,221,814	61,880,565	50,291,004
19. Furniture and equipment, including health care delivery assets (\$ 0)	126,014,225	126,014,225		
20. Net adjustment in assets and liabilities due to foreign exchange rates				
21. Receivables from parent, subsidiaries and affiliates	346,223,617	610	346,223,007	312,158,606
22. Health care (\$ 0) and other amounts receivable				
23. Aggregate write-ins for other than invested assets	715,856,703	39,949,956	675,906,747	715,420,301
24. Total assets excluding Separate Accounts, Segregated Accounts and Protected Cell Accounts (Lines 10 to 23)	35,470,142,960	639,706,425	34,830,436,535	32,549,788,186
25. From Separate Accounts, Segregated Accounts and Protected Cell Accounts				
26. Total (Lines 24 and 25)	35,470,142,960	639,706,425	34,830,436,535	32,549,788,186

DETAILS OF WRITE-IN LINES				
0901.				
0902.				
0903.				
0998. Summary of remaining write-ins for Line 09 from overflow page				
0999. Totals (Lines 0901 through 0903 plus 0998) (Line 9 above)				
2301. Cash Surrender Value Life Insurance	383,284,396		383,284,396	348,631,523
2302. Amounts receivable under high deductible policies	172,319,200	115,054	172,204,146	165,149,487
2303. Other assets	132,718,497	39,834,902	92,883,595	165,587,196
2398. Summary of remaining write-ins for Line 23 from overflow page	27,534,810		27,534,810	36,042,093
2399. Totals (Lines 2301 through 2303 plus 2398) (Line 23 above)	715,856,703	39,949,956	675,906,747	715,420,301



## LIABILITIES, SURPLUS AND OTHER FUNDS

	1 Current Year	2 Prior Year
1. Losses (Part 2A, Line 35, Column 6)	12,580,897,855	12,604,673,356
2. Reinsurance payable on paid losses and loss adjustment expenses (Schedule F, Part 1, Column 6)	76,374,442	82,048,426
3. Loss adjustment expenses (Part 2A, Line 35, Column 9)	2,545,218,863	2,465,475,558
4. Commissions payable, contingent commissions and other similar charges	119,922,389	98,083,863
5. Other expenses (excluding taxes, licenses and fees)	234,522,784	380,823,655
6. Taxes, licenses and fees (excluding federal and foreign income taxes)	168,208,453	258,823,744
7.1 Current federal and foreign income taxes (including \$ 0 on realized capital gains (losses))		38,105,135
7.2 Net deferred tax liability		
8. Borrowed money \$ 0 and interest thereon \$ 0		905,212
9. Unearned premiums (Part 1A, Line 38, Column 6) (after deducting unearned premiums for ceded reinsurance of \$ 2,135,447,180 and including warranty reserves of \$ 0)	3,293,042,806	3,320,119,872
10. Advance premium	43,887,917	60,012,654
11. Dividends declared and unpaid:		
11.1 Stockholders		
11.2 Policyholders	1,800,778	1,136,856
12. Ceded reinsurance premiums payable (net of ceding commissions)	717,199,249	680,465,345
13. Funds held by company under reinsurance treaties (Schedule F, Part 3, Column 19)	1,746,563,155	1,807,274,084
14. Amounts withheld or retained by company for account of others	565,667,187	455,703,129
15. Ramitance and items not allocated		
16. Provision for reinsurance (Schedule F, Part 7)	69,875,186	73,987,801
17. Net adjustments in assets and liabilities due to foreign exchange rates		
18. Drafts outstanding	294,010,958	292,965,747
19. Payable to parent, subsidiaries and affiliates	35,080,380	72,875,912
20. Payable for securities	59,521,815	15,457,572
21. Liability for amounts held under uninsured plans		
22. Capital notes \$ 0 and interest thereon \$ 0		
23. Aggregate write-ins for liabilities	(202,691,585)	(478,583,830)
24. Total liabilities excluding protected cell liabilities (Lines 1 through 23)	22,338,883,620	22,215,066,788
25. Protected cell liabilities		
26. Total liabilities (Lines 24 and 25)	22,338,883,620	22,215,066,788
27. Aggregate write-ins for special surplus funds	1,209,068,480	957,921,571
28. Common capital stock	10,000,000	10,000,000
29. Preferred capital stock		
30. Aggregate write-ins for other than special surplus funds	1,250,000	1,250,000
31. Surplus notes	795,347,894	862,074,980
32. Gross paid in and contributed surplus	6,435,272,283	6,336,272,283
33. Unassigned funds (surplus)	4,045,614,478	2,138,213,474
34. Less treasury stock, at cost:		
34.1 0 shares common (value included in Line 28 \$ 0)		
34.2 0 shares preferred (value included in Line 29 \$ 0)		
35. Surplus as regards policyholders (Lines 27 to 33, less 34) (Page 4, Line 39)	12,491,552,915	10,334,732,418
36. Totals (Page 2, Line 25, Col. 3)	34,830,436,535	32,549,788,198

DETAILS OF WRITE-IN LINES		
2301. Amounts held under uninsured plans	851,634,174	581,697,189
2302. Other liabilities	410,875,366	424,847,876
2303. Collateral held for securities loaned	279,831,199	110,828,705
2398. Summary of remaining write-ins for Line 23 from overflow page	(1,543,032,249)	(1,598,357,803)
2399. Totals (Lines 2301 through 2303 plus 2398) (Line 23 above)	(202,691,585)	(478,583,830)
2701. Special surplus from retrospective reinsurance	967,721,854	957,921,571
2702. SSAP10R incremental change	241,348,806	
2703.		
2798. Summary of remaining write-ins for Line 27 from overflow page		
2799. Totals (Lines 2701 through 2703 plus 2798) (Line 27 above)	1,209,068,480	957,921,571
3001. Guaranty funds	1,250,000	1,250,000
3002.		
3003.		
3098. Summary of remaining write-ins for Line 30 from overflow page		
3099. Totals (Lines 3001 through 3003 plus 3098) (Line 30 above)	1,250,000	1,250,000

State of Massachusetts

County of Suffolk

The officers of this reporting entity being duly sworn, each depose and say that they are the described officers of said reporting entity, and that on the reporting period stated above, all of the herein described items were the absolute property of the said reporting entity, free and clear from any liens or claims thereon, except as herein stated, and that this statement, together with related exhibits, schedules and supplements thereto contained, annexed or referred to, is a full and true statement of all the assets and liabilities and of the condition and affairs of the said reporting entity as of the reporting period stated above, and of its income and deductions therefrom for the period stated, and have been completed in accordance with the NAC Annual Statement Instructions and Accounting Practices and Procedures manual except in the extent that: (1) state law may differ; or, (2) that state rules or regulations require differences in reporting not related to accounting practices and procedures, according to the best of their information, knowledge and belief, respectively. Furthermore, the scope of this attestation by the described officers also includes the related corresponding electronic filing with the NAC, when required, together with any (except for formatting differences due to electronic filing) of the enclosed statement. The electronic filing may be requested by various regulators in lieu of or in addition to the enclosed statement.

*Edmund F. Kelly*  
(Signature)  
Edmund Francis Kelly  
(Printed Name)  
1.  
Chairman of the Board President & CEO  
(Title)

*Dexter B. Long*  
(Signature)  
Dexter B. Long  
(Printed Name)  
2.  
Vice President & Secretary  
(Title)

*Laurence Henry Snyd Yahn*  
(Signature)  
Laurence Henry Snyd Yahn  
(Printed Name)  
3.  
Senior Vice President & Treasurer  
(Title)

Subscribed and sworn to (or affirmed) before me on this  
1st day of February, 2010, by  
*Edmund F. Kelly*



a. Is this an original filing? [X] Yes [ ] No  
b. If no: 1. State the amendment number  
2. Date filed  
3. Number of pages attached

## PRINCIPAL NOTARY ACKNOWLEDGMENT

State of New York

County of New York ss:

On this 7th day of January, 2011, before me personally came John A. LoFrumento to me known, who being by me duly sworn, deposed and says that he is the Chief Executive Officer of American Society of Composers, Authors and Composers, the Principal described in and which executed the foregoing Agreement; that he knows the seal of the said Principal; that the seal affixed to the said Agreement is such seal; that it was so affixed by the order of the Board of Directors of said Principal, and that he signed his name thereto by like order.

  
(Signature of Notary Public)

My commission expires 9/30/2014

SUSAN HAUGH  
Notary Public, State of New York  
No. 01HA4722612  
Qualified in Queens County  
Certificate Filed in New York County  
Commission Expires 9/30/2014